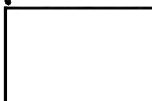


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COMPTROLLER GENERAL OF THE UNITED STATES

Washington 25



B-106791

January 10, 1952

The Administrator of Veterans Affairs
Veterans Administration

My dear Mr. Administrator:

File

Reference is made to letter of November 30, 1951, and enclosures, from the Deputy Administrator, requesting a decision whether the re-claim travel voucher submitted therewith may be certified for payment. The voucher is stated in favor of Herbert A. Bornhoft, 8214 Fourteenth Avenue, Hyattsville, Maryland, in the amount of \$213.75, which represents per diem in lieu of subsistence while away from his official headquarters, Boston, Massachusetts, and on temporary duty at Providence, Rhode Island.

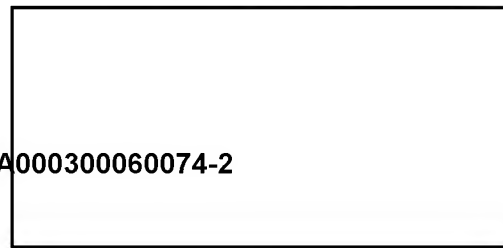
It is stated in the letter that Mr. Bornhoft maintained his residence in Cranston, Rhode Island, and commuted daily between that point and his headquarters, Boston, Massachusetts, a distance of approximately 18 miles; and, that during the period while on temporary duty at Providence he commuted daily between his residence in Cranston and Providence, his place of temporary duty, a distance of approximately 5 miles.

Travel Order No. 3001-67, July 5, 1951, directed Mr. Bornhoft to begin travel on approximately July 9, 1951, and to travel for approximately 15 days from Boston, Massachusetts, to Providence, Rhode Island, and to such other points in Rhode Island, Massachusetts, and Connecticut as may be required in connection with the institutional audit for the Providence Regional Office. A per diem in lieu of subsistence of \$9 per day was authorized. Ten additional days' travel was authorized by Travel Order 3001-251, dated August 8, 1951, but the latter travel order did not authorize any per diem in lieu of subsistence.

Among the enclosures transmitted with the letter is a copy of letter dated September 5, 1951, reference (4A/RGJ:pjm), from Mr. R. G. Jones, who issued the travel order, wherein it is stated, in part, as follows:

"2. Mr. Bornhoft was aware of the fact that it was not the intention of this office to authorize per diem in connection with his assignment when the work was conducted in the Providence, Rhode Island Regional Office. The per diem authorized by the travel order of July 5, 1951, was to cover Mr. Bornhoft in the event he was required to stay in New Bedford and work on the books of the Eastern Technical Institute in that city. At the time the travel order was issued the actual work site could not be determined and a contingent authorization was made."

STATINTL



"3. The matter was discussed with Mr. Bornhoft and other Finance Accountants prior to the assignment and it was administratively determined that no per diem would be allowed Mr. Bornhoft when work was done in the Providence Regional Office as Mr. Bornhoft's residence is in Cranston, Rhode Island, approximately five miles south of Providence. By Mr. Bornhoft's own statement the assignment saved him approximately \$30.00 a month in bus and railroad fares and two hours a day of travel time in not being required to report to the Boston Regional Office."

The record shows that Mr. Bornhoft contradicts the understanding relative to the payment of per diem in lieu of subsistence while on temporary duty at Providence and bases his reclaim upon the general proposition that an employee is entitled to per diem in lieu of subsistence while away from his permanent duty station on official business, even though the temporary duty may be at or near his place of residence.

Section 3 of the Travel Expense Act of 1949, Public Law 92, 63 Stat. 166, provides, in general, that a per diem in lieu of subsistence, to be prescribed by the department or establishment concerned, may be allowed civilian officers and employees while traveling on official business and away from their designated posts of duty. It is clear--and consistently has been recognized by this Office under similar legislation--that it was intended by the Congress, in providing for subsistence expense allowances, that such allowances should as nearly as possible approximate the additional cost to the employee of subsistence expense items during the period of his temporary duty away from his official station. See House Report No. 389 and Senate Report No. 428, 81st Congress, accompanying H. R. 3005, which became Public Law 92. Also, see 21 Comp. Gen. 697, 700; 22 id. 512; 24 id. 179; 28 id. 192. If the absences from headquarters are under such circumstances as not to require any increase in the actual expenses of subsistence over those which would have been incurred at headquarters, the basis for a subsistence allowance fails and it is the administrative responsibility to prevent the fixing of per diem in lieu of subsistence at rate in excess of that required to meet the necessary authorized expenses. See 22 Comp. Gen. 62, 67; and paragraph 45 of the Standardized Government Travel Regulations as amended October 1, 1950.

In the present case, the employee did not incur any additional costs by reason of his temporary duty at Providence. Rather, he commuted between his residence and such place of temporary duty, and, doubtless, incurred less expenses by reason of such temporary duty, because of the shorter distance of daily travel. Moreover, it is shown from the letter of September 5, 1951, quoted in part above, that the official who issued the travel order was aware of the fact that no additional cost would be incurred for the temporary duty at Providence and that it was not intended that the travel order of July 5, 1951, would authorize per diem for temporary duty at Providence, as might be inferred from a

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literal reading of the travel order. This fact is substantiated by the fact that the travel order of August 8, 1951, did not authorize any per diem in lieu of subsistence. Such action by the authorizing official appears to have been in accordance with the purpose of Public Law 92 and the established rule of this Office in relation to prior similar legislation.

Accordingly, upon the basis of the fact that the employee incurred no additional expense by reason of the official travel away from his headquarters during the period when he commuted between his regular place of residence and the place of temporary duty and the fact that the travel order of July 5, 1951, was not intended to authorize per diem in lieu of subsistence while on such temporary duty, the employee is not entitled to the payment of per diem in lieu of subsistence under Public Law 92, as proposed on the voucher.

The voucher, which is returned herewith, may not be certified for payment.

Sincerely yours,

(Signed) LINDSAY C. WARREN

Comptroller General
Of the United States